

**State of California
California Regional Water Quality Control Board, Los Angeles Region**

**RESOLUTION NO. 2003-XXX
June 5, 2003**

Amendment to the Water Quality Control Plan for the Los Angeles Region to Remove the Potential REC-1 Beneficial Use for “Ballona Creek,” Replace the Potential REC-1 Beneficial Use for “Ballona Creek to Estuary” with an Existing Limited REC-1 Use, and Add Bacteria Objectives to Protect the New Limited REC-1 Use.

WHEREAS, the California Regional Water Quality Control Board, Los Angeles Region, finds that:

1. Section 101(a)(2) of the Clean Water Act (CWA) sets a national interim goal – wherever attainable - of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983.
2. The Code of Federal Regulations 40 CFR §131.10(a) directs States to specify appropriate water uses to be achieved and protected. The classification of waters of the State must take into consideration the use and value of water for public water supplies, protection and propagation of fish, shellfish and wildlife, recreation in and on the water, agricultural, industrial and other purposes including navigation.
3. States may remove a designated use which is not an existing use, as defined in 40 CFR§ 131.3, or establish sub-categories of a use if the State can demonstrate that attaining the designated use is not feasible due to factors set out in 40 CFR §131.10(g).
4. Under section 40 CFR § 131.10 (j)(2) of the Water Quality Standards Regulation, States are required to conduct a Use Attainability Analysis (UAA) whenever they wish to remove a designated use that is specified in section 101(a)(2) of the Clean Water Act or adopt subcategories of uses specified in section 101(a)(2) that require less stringent criteria.
5. Ballona Creek is located in Los Angeles County, California, and flows slightly over 10 miles from the City of Los Angeles, through Culver City, reaching the Pacific Ocean at Playa del Rey. Except for the estuarine section of the creek, which is composed of grouted rip-rap side slopes and an earth bottom, Ballona Creek is entirely lined in concrete and extends into a complex underground network of storm drains which reaches north to Beverly Hills and West Hollywood. Tributaries of the creek include Centinela Creek, Sepulveda Canyon Channel, Benedict Canyon Channel, and numerous other storm drains. All of these tributaries are concrete lined channels which lead to covered culverts.
6. The Water Quality Control Plan for the Coastal Watersheds of Los Angeles and Ventura Counties (Basin Plan) designates beneficial uses of the Region’s waterbodies, establishes water quality objectives for the protection of these beneficial uses, and outlines a plan of implementation for maintaining and enhancing water quality.

T
E
N
T
A
T
I
V
E

7. The Basin Plan defines three sections of the creek based on hydrologic units. The section referred to as “Ballona Creek” (Reach 1) is a 2-mile stretch from Cochran Avenue to National Boulevard. “Ballona Creek to Estuary” (Reach 2) flows approximately 4 miles from National Boulevard to Centinela Avenue, where the estuary begins. “Ballona Creek Estuary” continues to the Pacific Ocean for 3.5 miles and its lower portion runs parallel to the main channel of Marina del Rey.
8. As indicated in Chapter 2 of the Basin Plan, Reaches 1 and 2 of Ballona Creek currently have designated uses for existing non-contact water recreation (REC-2) and potential water contact recreation (REC-1). Ballona Creek Estuary has an existing REC-1 use.
9. The Regional Board has determined that the potential REC-1 use in Reach 1 of Ballona Creek should be removed. In addition, the potential REC-1 use of Reach 2 should be replaced with a limited REC-1 use based on the nature and frequency of use.
10. The limited REC-1 designation will provide a lower level of protection than the current REC-1 designation based on frequency of use. This approach is consistent with USEPA guidance which suggests higher allowable levels for bacteria limits with decreasing frequency of use in a waterbody.
11. These modifications are consistent with the Antidegradation Policy as they will not lower the water quality of the creek, relative to existing conditions. In assigning water quality objectives to the limited uses that exist, the Basin Plan Amendment fulfills the requirement of protecting the level of water quality necessary to protect existing and anticipated beneficial uses.
12. The proposed amendment is based on the results of a UAA of the recreational uses of Reach 1 and 2, performed by Regional Board staff. This analysis was conducted between March and August of 2002 to determine actual and potential recreational uses of the creek. The UAA is necessary to conform with 40 CFR § 131.10(j) because the action involves the recreation use specified in section 101(a)(2) of the Clean Water Act. The proposed amendment and the UAA only address the swimmable goal included in the REC-1 designation, and does not address the fishable goal (“protection and propagation of fish, shellfish, and wildlife”) contained in section 101(a)(2) of the Clean Water Act.
13. The Regional Boards’ goal in making the above amendments is to assign bacterial water quality objectives that accurately reflect the existing and potential uses of Reaches 1 and 2 of Ballona Creek.
14. Interested persons and the public have had reasonable opportunity to participate in review of the amendment to the Basin Plan. Efforts to solicit public review and comment include release of a draft staff report, tentative resolution, and Basin Plan Amendment on ____, 2003 and a public workshop on ____, 2003.
15. A Notice of Hearing and Notice of Filing were published and circulated 45 days preceding Board action. Regional Board staff responded to oral and written comments received from the public; and the Regional Board held a public hearing on June 5, 2003 to consider modification of the REC-1 beneficial use in Ballona Creek (Reach 1 and 2).

T
E
N
T
A
T
I
V
E

16. The basin planning process has been certified as functionally equivalent to the California Environmental Quality Act requirements for preparing environmental documents (Public Resources Code, Section 21000 et seq.) and as such, the required environmental documentation and CEQA environmental checklist have been prepared.
17. The proposed amendment results in no potential for adverse effect (de minimis finding), either individually or cumulatively, on wildlife.
18. The regulatory action meets the “Necessity” standard of the Administrative Procedures Act, Government Code, section 11353, subdivision (b).
19. The Basin Plan amendment to modify the recreational beneficial use for Ballona Creek (Reaches 1 and 2) must be submitted for review and approval by the State Water Resources Control Board (State Board), the State Office of Administrative Law (OAL), and the United States Environmental Protection Agency (USEPA). The Basin Plan amendment will become effective upon approval by OAL and USEPA. A Notice of Decision will be filed.

THEREFORE, be it resolved that

1. Pursuant to sections 13240 and 13241 of the California Water Code, the Regional Board, after considering the entire record, including oral testimony at the hearing, hereby adopts the amendment to the Water Quality Control Plan for the Los Angeles Region as set forth in the attachment.
2. The Executive Officer is directed to forward copies of the Basin Plan amendment to the SWRCB in accordance with the requirements of section 13245 of the California Water Code.
3. The Regional Board requests that the SWRCB approve the Basin Plan amendment in accordance with the requirements of sections 13245 and 13246 of the California Water Code and forward it to OAL and the USEPA.
4. If during its approval process the SWRCB or OAL determines that minor, non-substantive corrections to the language of the amendment are needed for clarity or consistency, the Executive Officer may make such changes, and shall inform the Board of any such changes.
5. The Executive Officer is authorized to sign a Certificate of Fee Exemption.

I, Dennis A. Dickerson, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the California Regional Water Quality Control Board, Los Angeles Region, on June 5, 2003.

Dennis A. Dickerson
Executive Officer

Date

T
E
N
T
A
T
I
V
E